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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,556	11/10/2003	Jack Tucker		5496

7590 12/01/2004  
David A. Tucker  
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EXAMINER

BUMGARNER, MELBA N

ART UNIT PAPER NUMBER

3732

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/705,556

Applicant(s)

TUCKER ET AL.

Examiner

Melba Bumgarner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION*****Specification***

1. The serial number of the parent application noted by the applicant is incorrect, the number should be --10/228,740— not 10/288,740. An application cannot be both divisional and continuation-in-part. As noted from the new matter in the specification of this application number 10/705,556, the application will be considered as continuation-in-part. The subject matter not disclosed in the original disclosure will not be afforded the priority date of the parent application of November 6, 2002, which claims the benefit of provisional application 60/315,640 filed August 29, 2001, but that of the filing date of this application.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "food", "vanilla" and "bread" in claim 13.

***Information Disclosure Statement***

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper."

Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "strings, rods, levers,

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handles and pins” in claims 4, 6, 7, and 18, “clamp” in claims 8 and 19, “heat-generating or heat-conducting component” in claim 9 must be shown or the feature(s) canceled from the claim(s). **No new matter** should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

5. Claims 1, 10, and 16 are objected to because of the following informalities: “the” before patient’s should read —a—. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3, 4, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore (3,468,029). Moore discloses a method for taking a dental impression comprising selecting a dual arch dental impression tray 10, placing a quantity of impression material in the tray (column 4 line 1), placing the loaded tray in a patient's oral cavity, causing the patient to bite into the impression material, utilizing a means for reducing the rigidity in the tray's frame, allowing the impression material to cure, and removing the impression and tray from the oral cavity (column 6 line 34, column 4 line 50). As to claim 3, the means is utilized by manipulating a component of the tray. As to claim 4 as understood, the component is a lever (hinge 23).

8. Claims 1-5, 7, 8, 16, 17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Stone (2,622,324). Stone discloses a method for taking a dental impression comprising selecting a dual arch dental impression tray (column 2 line 7), placing a quantity of impression material in the tray (column 2 line 45), placing the loaded tray in a patient's oral cavity, causing the patient to bite into the impression material, utilizing a means for reducing the rigidity in the tray's frame 23, allowing the impression material to cure, and removing the impression and tray from the oral cavity (column 2 line 52). As to claim 2, the means is utilized by severing a connection member within the tray's frame that affixes two sections of the frame together 12,13. As to claim 3, the means is utilized by manipulating a component of the tray. As to claims 4 and 5, the component is a wire or rod, which is capable of being pulled. Stone shows the means

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being a handle and a clamp. Stone shows a component on the tray of a wire capable of being removed and a clamping instrument.

9. Claims 10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor et al. (4,449,927). Taylor et al. disclose a method for taking a dental impression comprising selecting a dual arch dental impression tray (figure 1), procuring a support material which can be bitten through 36, applying the support material to the tray, placing a quantity of impression material in the tray (column 3 line 39), placing the loaded tray in a patient's oral cavity; causing the patient to bite into the impression material, allowing the impression material to cure, and removing the impression and tray from the oral cavity (column 3 line 60). As to claim 14, the support material contains a wax (column 3 line 34).

10. Claims 16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (3,987,548). Jones discloses a method for taking a dental impression comprising selecting a dual arch dental impression tray 1, adding a component (user's hand) to the tray which can help support the tray before it is delivered to the mouth and which can be removed to reduce such support once the patient has bitten into the tray, placing a quantity of impression material in the tray, placing the loaded tray in a patient's oral cavity; causing the patient to bite into the impression material, removing the component, allowing the impression material to cure, and removing the impression and tray from the oral cavity (column 7 line 53).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 6-9, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore. Moore discloses a method that shows the limitations as described above; however, Moore does not show other forms of means such as a pin. It would have been an obvious matter of choice to one of ordinary skill in the art at the time the invention was made as to the specific means in that the specification does not adequately describe and the drawings fail to show the features as claimed.

13. Claims 11-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. in view of Kittelsen (5,460,527). Taylor et al. disclose a method that shows the limitations as described above; however, they do not show the support material containing a "food." Kittelsen teaches an impression support material containing wax as well as sugar, flour, and candy (column 5 line 11). Kittelsen shows that such food is an equivalent structure known in the art. Therefore, because these materials were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute food of Kittelsen for wax of Taylor et al. Kittelsen also teaches nonedible materials such as styrofoam.

#### *Conclusion*

14. Any inquiry concerning this communication from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in cursive script, reading "Melba Bumgarner".

Melba Bumgarner  
Patent Examiner